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15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
16 IN AND FOR THE COUNTY OF YAVAPAI

17 STATE OF ARIZONA,

18 Plaintiff,

19 vs.

20 STEVEN CARROLL DEMOCKER,

21 Defendant.

) No. P1300CR20081339

) Div. 6

) **DEFENSE REPLY AND MOTION**
) **FOR SANCTIONS PURSUANT**
) **TO RULE 15.7 FOR**
) **UNDISCLOSED CHRIS KOTTKE**
) **INTERVIEW**

) **FILED UNDER SEAL**

22
23 Steven DeMocker, by and through counsel, hereby respectfully moves this Court
24 to preclude the State from calling any Hartford Insurance witness or introducing any
25 evidence relating to Hartford Insurance pursuant to Arizona Rule of Criminal Procedure
26 15.7. This motion is based on the Due Process Clause, the Confrontation Clause, the
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1 Fifth, Sixth, Eighth and Fourteenth Amendments and Arizona counterparts, Arizona
2 Rules of Evidence, Arizona Rules of Criminal Procedure and the following
3 Memorandum of Points and Authorities.
4

5 **Memorandum of Points and Authorities**

6 On September 8 the defense was informed that the State had conducted a 6-hour
7 recorded interview of Chris Kottke on August 17. On September 9 the defense
8 requested copies of the interview transcript, tapes and any documents relevant to the
9 interview be provided to the defense immediately. This request was and continues to be
10 ignored by the State.
11

12 The defense filed a motion with this Court on September 17 requesting that the
13 Court hear the matter as soon as possible in a sealed proceeding and that the Court
14 confirm the interview took place and remains undisclosed. Although under seal
15 hearings were held on September 17, this issue was not addressed by the Court.
16

17 Also on September 17 the State indicated that it intends to call Hartford
18 Insurance witnesses on September 21. As of September 29 the State indicated it will
19 call witnesses related to this issue on October 1. The State's proposed stipulation
20 related to Hartford Insurance specifically includes the transfer of money through the
21 trusts and estate, matters about which Mr. Kottke was obviously interviewed. The State
22 further indicated that it intends to introduce evidence relating to the transfer of money
23 through the trust and estate of Ms. Kennedy. Mr. Kottke was served as counsel for the
24 estate of Ms. Kennedy. Mr. Kottke's interview is clearly relevant to the proposed
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1 testimony by and about Hartford Insurance and is subject to the disclosure requirements
2 of Rule 15.1. The State's response indicates that it is refusing to disclose this interview.

3
4 Given the State's failure to disclose this interview in accordance with Rule 15.1,
5 the defense requests that the State be prohibited from offering any testimony from
6 Hartford Insurance witnesses or introducing any evidence about Hartford Insurance
7 policies. Such a sanction is permissible under Rule 15.7 which gives the Court authority
8 to sanction the State for its failure to comply with the disclosure requirements.
9

10 **Conclusion**

11 The Court should preclude the State from calling any witnesses from Hartford
12 Insurance or introducing any evidence relating to Hartford Insurance pursuant to Rule
13 15.7.
14

15 DATED this 14th day of October, 2010.

16
17 By: 

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25 ///

26 ///

1 **ORIGINAL** of the foregoing hand delivered for
2 filing this 14th day of October, 2010, with:

3 Jeanne Hicks
4 Clerk of the Court
5 Yavapai County Superior Court
6 120 S. Cortez
7 Prescott, AZ 86303

8 **COPIES** of the foregoing hand delivered this
9 this 14th day of October, 2010, to:

10 The Hon. Warren R. Darrow
11 Judge Pro Tem B
12 120 S. Cortez
13 Prescott, AZ 86303

14 Joseph C. Butner, Esq.
15 Jeffrey Paupore, Esq.
16 Prescott Courthouse basket

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